

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 1:23-cv-23963-GAYLES/LOUIS

LISETTE YAQUES and
JOSE VICTORERO,

Plaintiffs,

v.

ZHENZHEN LIN, *et al.*,

Defendants.

ORDER

THIS CAUSE comes before the Court on Magistrate Judge Lauren F. Louis' Report and Recommendations (the "Report"). [ECF No. 66]. On January 22, 2024, Defendants Bank of America, N.A. and JPMorgan Chase Bank, N.A. filed their Joint Motion to Dismiss Amended Complaint (the "Motion"). [ECF No. 58]. Plaintiffs Lisette Yaques and Jose Victorero then filed their Response, [ECF No. 59], to which Defendants filed a reply, [ECF No. 62]. On January 3, 2024, the Court referred the case to Judge Louis, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a report and recommendation on any dispositive matters. [ECF No. 48]. On May 31, 2024, Judge Louis issued her Report recommending that the Court grant, in part, and deny, in part, Defendants' Motion. [ECF No. 66]. The parties have not objected to the Report.

A district court may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objections are made are accorded *de novo* review, if those objections "pinpoint the specific findings that the party disagrees with." *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific objections are made are reviewed only

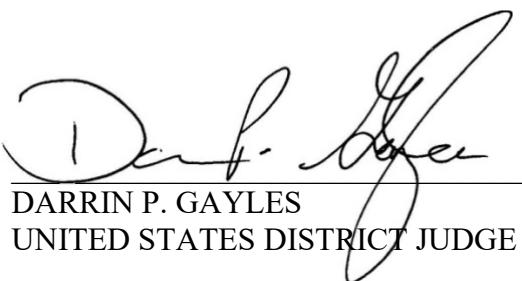
for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

This Court finds no clear error with Judge Louis' well-reasoned analysis and agrees that the Motion should be granted, in part, and denied, in part.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. Magistrate Judge Lauren F. Louis' Report and Recommendations, [ECF No. 66], is **AFFIRMED AND ADOPTED** and incorporated into this Order by reference;
2. Defendants Bank of America, N.A. and JPMorgan Chase Bank, N.A.'s Joint Motion to Dismiss Amended Complaint, [ECF No. 58], is **GRANTED, in part, and DENIED, in part, as follows:**
 - a. GRANTED as to Counts I–V of the Amended Complaint, [ECF No. 51], for failure to state a claim;
 - b. DENIED as to Defendant's assertion that Plaintiffs' common law claims are preempted by Article 4 of the Uniform Commercial Code;
3. Counts I–V of the Amended Complaint, [ECF No. 51], are DISMISSED, without prejudice, as to Defendants Bank of America, N.A. and JPMorgan Chase Bank, N.A.; and
4. Plaintiffs Lisette Yiques and Jose Victorero may seek leave to file an amended complaint within twenty (20) days of this Order.

DONE AND ORDERED in Chambers at Miami, Florida, this 1st day of July, 2024.



DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE